

**Introduced by Senator Lowenthal**

February 22, 2005

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An act to add Section 1745 to the Harbors and Navigation Code, relating to ports.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 760, as introduced, Lowenthal. Ports: congestion relief: security enhancement: environmental mitigation: user fee.

(1) Existing law regulates the operation of ports and harbors.

This bill would impose on each shipping container processed in the Port of Los Angeles and the Port of Long Beach a fee of \$30 per twenty-foot equivalent unit (TEU), payable to the port by the marine terminal operator processing the container.

The bill would require the ports to retain 1/3 of the funds derived from imposition of the fee and transmit the remaining 2/3 in the amount of 1/2 to the California Transportation Commission and 1/2 to the South Coast Air Quality Management District.

The bill would require the commission to use the funds received under these provisions to alleviate congestion on the highways serving the ports by improving the rail system that transports shipments from and to those ports and the on-dock rail facilities at those ports.

The bill would prohibit commission from using the funds to construct, maintain, or improve highways.

The bill would require the commission to consult with the transportation commissions for the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura in the process for selecting projects for funding.

The bill would require the ports to use the funds retained as specified above exclusively for the purpose of funding projects to

improve the security of the ports, including the screening of shipping containers.

The bill would require the ports, in selecting projects for funding, to consult with the United States Coast Guard, the federal Department of Homeland Security, the Office of Homeland Security, and other state and federal agencies that may assist the ports in determining which projects are best suited to protecting the ports and their surrounding communities.

The bill would require the South Coast Air Quality Management District to use the funds receive under these provisions to mitigate environmental pollution caused by the movement of cargo to and from the ports via commercial motor vehicles, ocean-going vessels, and rail.

The bill would authorize projects funded by the district to be limited to reducing emission from sources located at the ports, to include replacing highly-polluting engines with cleaner engines and retiring the engines that have been replaced, assisting the ports with implementing or enhancing the use of cold-iron technology, and other projects that the district determines reduce emissions from sources located at the ports.

The bill would establish a state-mandated local program by imposing these additional duties upon the ports.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1745 is added to the Harbors and
- 2 Navigation Code, to read:
- 3 1745. (a) The Legislature hereby finds and declares all of the
- 4 following:

1 (1) There is a need to mitigate the enormous burden imposed  
2 on the highway transportation system serving the Ports of Los  
3 Angeles and Long Beach by the overland movement of cargo  
4 shipped from and to those ports.

5 (2) Due to unanticipated growth at the ports and new federal  
6 security requirements that are applicable to those ports, it is  
7 necessary to enhance the security of the ports.

8 (3) The operation of the ports causes environmental pollution  
9 that requires mitigation.

10 (4) Accordingly, it is the intent of the Legislature to alleviate  
11 these burdens by imposing a fee on shipping containers  
12 processed through those ports and using the funds derived  
13 therefrom to do all of the following:

14 (A) Improve the rail system that serves as an alternative to  
15 shipping via the highway by commercial vehicle, including, but  
16 not limited to, the on-dock rail facilities at those ports.

17 (B) Enhance the security at the ports.

18 (C) Mitigate the environmental pollution caused by port  
19 operations.

20 (b) There is hereby imposed on each shipping container  
21 processed in the Port of Los Angeles and the Port of Long Beach  
22 a fee of thirty dollars (\$30) per twenty-foot equivalent unit  
23 (TEU), payable to the port by the marine terminal operator  
24 processing the container.

25 (c) The Port of Los Angeles and the Port of Long Beach shall  
26 retain one-third of the funds received under subdivision (b) and  
27 shall transmit the remaining two-thirds on a quarterly basis as  
28 follows:

29 (1) One-half to the California Transportation Commission.

30 (2) One-half to the South Coast Air Quality Management  
31 District.

32 (d) (1) The California Transportation Commission shall use  
33 the funds received under paragraph (1) of subdivision (c) to  
34 alleviate congestion on the highways serving the Ports of Los  
35 Angeles and Long Beach by improving the rail system that  
36 transports shipments from and to those ports and the on-dock rail  
37 facilities at those ports.

38 (2) The funds received by the commission shall not be used to  
39 construct, maintain, or improve highways.

1 (3) In the process for selecting projects for funding under this  
2 subdivision, the commission shall consult with the transportation  
3 commissions for the Counties of Los Angeles, Orange, Riverside,  
4 San Bernardino, and Ventura.

5 (4) Projects that may be funded under this subdivision include,  
6 but are not limited to, all of the following:

7 (A) Rail grade separations to relieve highway congestion.

8 (B) Expansion of on-dock rail facilities.

9 (C) Other projects that facilitate the movement of cargo by rail  
10 and thus alleviate congestion on highways serving the ports.

11 (e) (1) The ports shall use the funds retained under subdivision  
12 (c) exclusively for the purpose of funding projects to improve the  
13 security of the ports, including, but not limited to, the screening  
14 of shipping containers.

15 (2) In selecting projects for funding under this subdivision, the  
16 ports shall consult with the United States Coast Guard, the  
17 federal Department of Homeland Security, the Office of  
18 Homeland Security, and other state and federal agencies that may  
19 assist the ports in determining which projects are best suited to  
20 protecting the ports and their surrounding communities.

21 (f) (1) The South Coast Air Quality Management District shall  
22 use the funds received under paragraph (2) of subdivision (c) to  
23 mitigate environmental pollution caused by the movement of  
24 cargo to and from the ports via commercial motor vehicles,  
25 ocean-going vessels, and rail.

26 (2) Projects funded by the district under this subdivision shall  
27 be limited to reducing emission from sources located at the ports  
28 and may include, but need not be limited to, all of the following:

29 (A) Replacing high-polluting engines with cleaner engines and  
30 retiring the engines that have been replaced.

31 (B) Assisting the ports with implementing or enhancing the  
32 use of cold-iron technology.

33 (C) Other projects that the district determines reduce  
34 emissions from sources located at the ports.

35 SEC. 2. If the Commission on State Mandates determines that  
36 this act contains costs mandated by the state, reimbursement to  
37 local agencies and school districts for those costs shall be made  
38 pursuant to Part 7 (commencing with Section 17500) of Division  
39 4 of Title 2 of the Government Code.

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